

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>UNITED STATES OF AMERICA,</b>	)	<b>Case No. 1:10 CR 529; 1:13 CV 675</b>
	)	
<b>Plaintiff,</b>	)	<b>Judge Dan Aaron Polster</b>
	)	
<b>vs.</b>	)	<b><u>MEMORANDUM OF OPINION</u></b>
	)	<b><u>AND ORDER</u></b>
<b>FUAD KHALIL,</b>	)	
	)	
<b>Defendant.</b>	)	

On January 14, 2011, Defendant Fuad Khalil waived prosecution by indictment, agreed to proceed by information, and pled guilty to three counts of food-stamp fraud. On April 12, 2011, the Court sentenced Khalil to 5 months in prison followed by 2 years of supervised release. Khalil completed his prison term and was on supervised release when he was taken into INS custody, apparently for removal proceedings as a result of his criminal conviction.

On March 27, 2013, Khalil filed a motion pursuant to 28 U.S.C. § 2255 to vacate his conviction and sentence, contending that he was incompetent at the time he entered his guilty plea and was sentenced and that his trial counsel was ineffective for failing to recognize his incompetency. On April 2, the Court held a telephone conference with AUSA Vasile Katsaro and Attorney John Parker. As a result of that conference, the Court, with the agreement of the parties, orders a full psychiatric competency evaluation of Khalil.

Therefore, it is ORDERED that such examination shall be conducted pursuant to 18 U.S.C. § 4247(b) and shall be completed no later than June 30, 2013;

FURTHER ORDERED that the Court modifies Khalil's supervision to encompass being taken into federal custody for the purposes of this examination;

FURTHER ORDERED that the person(s) conducting the examination shall be mindful that Khalil's native language is Spanish.

FURTHER ORDERED that a report of the psychiatric and/or psychological competency examination of the Defendant shall be submitted to the Court and served on counsel of record (Assistant United States Attorney Vasile Katsaros, 801 West Superior Avenue, Suite 400, Cleveland, Ohio 44113; and John Parker, Attorney for Defendant, 988 E. 108th Street, Cleveland, Ohio 44119) pursuant to 18 U.S.C. § 4244(b) and 18 U.S.C. § 4247(c).

FURTHER ORDERED that should the examiner(s) need additional time to complete their examination of the Defendant, they shall file a motion with the Court showing good cause why the additional time is necessary to observe and evaluate the Defendant according to 18 U.S.C. § 4247(b);

FURTHER ORDERED that, unless impracticable, the U.S. Marshals shall make appropriate arrangements to have the Defendant transferred, under the custody of the Attorney General, for placement in a suitable facility closest to this Court. Otherwise, Defendant is referred to FMC Butner, Federal Medical Center, P.O. Box 1600, Butner, NC 27509, where such examination of the Defendant shall be conducted;

FURTHER ORDERED that a hearing shall be scheduled in this matter after the results of the Defendant's examination have been submitted to the Court and counsel;

FURTHER ORDERED that the Defendant shall continue to receive, while in federal custody, all necessary medications and injections currently prescribed to him;

FURTHER ORDERED that the Court holds in abeyance all hearings and deadlines until after completion of the report on Defendant's psychiatric or psychological examination; and

FURTHER ORDERED that on completion of the examination and any necessary hearings held as a result of the findings, the Defendant shall be returned to the custody of INS.

**IT IS SO ORDERED.**

/s/Dan Aaron Polster 4/3/13  
**Dan Aaron Polster**  
**United States District Judge**

